

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BUBBIE D. TILLMAN, a/k/a  
BOBBIE TILLMAN,

Petitioner,

v.

CASE NO. 09-13005  
HON. JOHN CORBETT O'MEARA

GREGORY McQUIGGIN,

Respondent.

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**ORDER DENYING PETITIONER'S MOTION  
FOR A CERTIFICATE OF APPEALABILITY  
AND HIS MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS ON APPEAL**

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. On July 6, 2010, the Court dismissed the petition as time-barred. In the same order, the Court declined to issue a certificate of appealability or leave to proceed *in forma pauperis*. Currently pending before the Court are Petitioner's motions for a certificate of appealability and for leave to proceed *in forma pauperis* on appeal. Because the Court addressed the matter of the appellate filing fee and a certificate of appealability in its dispositive opinion, the Court will treat Petitioner's motions as motions for reconsideration.

A motion for reconsideration must be filed within fourteen days of the judgment under attack. Local Rule 7.1(h)(1)(E.D. Mich. Mar. 1, 2010). Petitioner's motions are dated July 22, 2010, and were filed with the Clerk of the Court on July 26, 2010. They are untimely even if deemed filed on the date they were signed.

Furthermore, Petitioner's motion for a certificate of appealability raises arguments that

the Court considered in its dispositive opinion. “Generally, and without restricting the court’s discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication.” Local Rule 7.1(h)(3).

Petitioner has not demonstrated that the Court was misled by a “palpable defect” when it dismissed his habeas petition and declined to issue a certificate of appealability and leave to proceed *in forma pauperis* on appeal. *See id.* Accordingly, Petitioner’s motion for a certificate of appealability [Dkt. #16] and his motion to proceed *in forma pauperis* on appeal [Dkt. #15] are **DENIED**. Petitioner may apply to the Court of Appeals for a certificate of appealability and for leave to proceed *in forma pauperis*. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 24(a)(5).

s/John Corbett O’Meara  
United States District Judge

Date: August 3, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, August 3, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz  
Case Manager